

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

WP(C).No. 65 of 2006(G)

OS.462/2005 of PRL.SUB COURT,KOTTAYAM

PETITIONERS:

1. INTEGRATED FINANCE CO.LTD.,  
REGD.AND ADMN.OFFICE, 'VAIRAMS', 112,  
THYAGARAYA ROAD, T. NAGAR, CHENNAI-600 017,  
TAMIL NADU, REPRESENTED BY ITS AUTHORISED  
SIGNATORY V. JANARDHANAN.

2. THE BRANCH MANAGER,  
INTEGRATED FINANCE CO.LTD.,  
1ST FLOOR, CSI COMMERCIAL COMPLEX,  
OPPOSITE PADINJAREKKARA AUDITORIUM  
BAKER JUNCTION, KOTTAYAM-686 001.

BY ADV. SRI.JOSEPH KODIANTHARA,  
SRI.MATHEWS K.UTHUPPACHAN.

RESPONDENT:

JAYALAKSHMI K., D/O. S. KRISHNANKUTTY  
CHITHIRA HOUSE, KUMARAKOM SOUTH P.O.,  
KUMARAKOM VILLAGE, KOTTAYAM TALUK & DISTRICT.

BY ADV. SRI.K.GOPALAKRISHNA KURUP.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 21/11/2007,THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:

**W.P.(C). NO.65/2006-G:**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P.1: COPY OF THE RECEIPT DTD. 09/12/2005 ISSUED BY THE AMIN IN O.S. 462/2005.**

**EXT.P.2: COPY OF THE NEWS ITEM APPEARED IN THE MATHRUBHOOMI DAILY DTD. 10/12/2005.**

**EXT.P.3: COPY OF THE NEWS ITEM APPEARED IN THE DESHABHIMANI DAILY DTD. 10/12/2005.**

**EXT.P.4: COPY OF THE NEWS ITEM APPEARED IN THE NEW INDIAN EXPRESS DAILY DTD. 10/12/2005.**

**EXT.P.5: COPY OF THE NEWS ITEM APPEARED IN THE MALAYALA MANORAMA DAILY DTD. 10/12/2005.**

**EXT.P.6: COPY OF THE NEWS ITEM APPEARED IN THE MANGALAM DAILY DTD. 10/12/2005.**

**EXT.P.7: EXTRACT OF THE ORDER DTD. 08/12/2005 IN I.A. NO. 2945/2005 IN O.S. NO. 462/2005.**

**EXT.P.8: EXTRACT OF THE REPORT DTD. 09/12/2005 IN I.A. NO. 2945/2005 IN O.S. NO. 462/2005 SUBMITTED BY THE AMIN.**

**RESPONDENT'S EXHIBITS: NIL.**

**//TRUE COPY//**

**prv.**

M.N. KRISHNAN, J.

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W.P.C. NO. 65 OF 2006

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Dated this the 21<sup>st</sup> day of November, 2007.

J U D G M E N T

This writ petition is preferred with a prayer to call for the records in I.A.2945/05 and direct the Subordinate Judge, Kottayam to initiate proceedings to recover the amount released to the respondent and keep the same in Court as security for the plaint claim till disposal of the same and direct the learned Subordinate Judge, Kottayam not to pass any orders in O.S.462/05 without hearing the petitioners.

2. The respondent in the writ petition filed a suit for recovery of the amount due to her and along with the same filed an application for attachment. The Court below ordered a conditional attachment. When the Amin went to the property the respondent handed over a sum of Rs.1,05,800 and the Amin has reported that as per the direction of the Principal Sub Judge he had handed over the amount to the counsel for the plaintiff. It is that act which is challenged.

3. I have called for a report from the Subordinate Judge, Kottayam and he has filed a detailed report. The Principal Sub Judge had given such direction for the following reasons. He had heard the counsel for the plaintiff and the defendants and as it was reported that the matter is settled between the parties there was a suggestion to give the amount to the plaintiff so as to enable her to file an application for withdrawal of the suit. So accordingly, amount was handed over on 9.12.05 and on 15.12.05 a petition for withdrawing the suit on the ground that the matter is settled was filed by the learned counsel for the plaintiff. An advance petition was also filed though it was allowed, the case was posted to 16.1.06. Now, it is submitted by the Subordinate Judge that it was under these peculiar circumstances the amount was handed over to the counsel appearing for the plaintiff who in turn had issued a receipt. The petition for withdrawal of the suit as well as an application for redeposit of the amount, I am told, are

pending before the Court for consideration. I do not want to express any thing on merits regarding the same. It is for that Court to consider regarding the withdrawal application and the other application for redeposit. The decision on redeposit will also depend upon the result of the withdrawal of the suit. Or in other words, the matter to be decided is whether there is a settlement between the parties. I direct the Court below to decide the withdrawal application first, after hearing both sides and take a decision and depending on the result of the same he may pass appropriate orders in the application for redeposit of the amount.

The writ petition is disposed of accordingly.

**M.N. KRISHNAN, JUDGE.**

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